Information Summary and Recommendations

Nurse Delegation Sunrise Review

January 1995

For more information or
additional copies of this report contact:

Office of Health Services Development
PO Box 47851
Olympia, Washington 98504-7851

206-753-3234
SCAN 234-3234
FAX 664-0398

Bruce A. Miyahara
Secretary of Health

The Sunrise Review Process

Legislative Intent

It is the Legislature's intent to permit all qualified individuals to enter a health profession. If there is an overwhelming need for the state to protect the public, then entry may be restricted. Where such a need to restrict entry and protect the public is identified, the regulation adopted should be set at the least restrictive level.

The Sunrise Act, Revised Code of Washington (RCW) 18.120.010, states that a health care profession should be regulated only when:

- Unregulated practice can clearly harm or endanger the health, safety, or welfare of the public, and the potential for harm is easily recognizable and not remote or dependent on tenuous argument;
- The public can reasonably benefit from an assurance of initial and continuing professional ability; and
- The public cannot be protected by other, more cost effective means.

There are three types of credentialing:

- *Registration.* A process by which the state maintains an official roster of names and addresses of the practitioners in a given profession. The roster contains the location, nature and operation of the health care activity practiced, and, if required, a description of the services provided. A registrant could be subject to the Uniform Disciplinary Act, Chapter 18.130 RCW.
- *Certification.* A voluntary process by which the state grants recognition to an individual who has met certain qualifications. Non-certified persons may perform the same tasks, but may not use "certified" in the title. A certified person is subject to the Uniform Disciplinary Act.
- *Licensure.* A method of regulation by which the state grants permission to engage in a health care profession only to persons who meet predetermined qualifications. Licensure protects the scope of practice and title. A licensee is subject to the Uniform Disciplinary Act.

Overview of Proceedings

The Department of Health (DOH) notified the applicant group, all professional associations, boards, committees, and commission chairs and staff, and other interested parties of the Sunrise Review. Meetings and discussions were held and documents circulated to all interested parties.

Regulatory agencies in all other states were requested to provide sunrise reviews, regulatory standards, or other information which would be useful in evaluating this proposal. A literature review was conducted.

A public hearing on the applicant original proposal was held in Olympia on October 26, 1994. The hearing panel included staff from the Department of Health, State Board of Health, and Department of Labor and Industries. Interested parties were allowed ten days following the public hearing to provide additional written comments.

A roundtable discussion was held on December 5, 1994, as a follow-up to the October 26, 1994 public hearing. Interested parties were provided an opportunity to discuss and respond to the department staff's preliminary recommendations. This report (based on the sunrise criterion) incorporates the suggestions, concerns, and recommendations of the various interested parties to the extent possible while remaining consistent. Sunrise staff used the results of the discussion and the public hearing while finalizing their recommendations prior to submitting them to the Health Systems Quality Assurance Assistant Secretary and Department of Health Secretary for approval. The final report will be transmitted to the Legislature via the Office of Financial Management.

Executive Summary

Introduction

In 1993, the Legislature asked the department to conduct a sunrise review on House Bill 1409. After the review was completed, the department recommended that nurses be allowed to delegate specific tasks in residential programs for people with disabilities. The Legislature then asked the department to review House Bills 2132 and 2133 which would allow nurses to delegate specific tasks to a new level of registered nursing assistants in specific community-based settings *(foster care and community-based long-term care).* In September 1994, the proponent, the Department of Social and Health Services (DSHS), submitted a revised proposal which broadened the scope of the review. The revised proposal offered much less specificity of the tasks that could be delegated and no specific site limitation as in the original proposals. DSHS presented further revised drafts responding to the sunrise process. This report is based on the original applicant proposal. The findings and recommendations however, are a result of a comprehensive public process and take into account the revised proposals from the applicant group.

The Department recommends enacting a nurse delegation statute. Draft legislation is attached based on these recommendations and findings.

Recommendations

1. Registered nurses should have the option to delegate to certified and registered nursing assistants, or other credentialed health personnel the following nursing tasks: oral and topical medications and ointments; nose, ear, and eye drops and ointments; dressing changes and catheterization using only clean technique; suppositories; enemas; colostomy care; blood glucose monitoring; insulin administration; and gastrostomy feedings in established, wound-healed gastrostomies.

2. The following procedures should not be delegated: sterile procedures; crossing the barrier of the skin (except for blood glucose monitoring and insulin administration); and management, manipulation, or care for intravenous devices, intravenous lines, or infusion of intravenous substances.

3. The Nursing Care Quality Assurance Commission should adopt nursing task delegation protocols and make them available to the public by July 1, 1996.

   Protocols for this delegation must require the following:
   - The nurse to thoroughly assess the patient before consideration of delegation.
   - The nurse to obtain written consent signed by the consumer, delegatee, and registered nurse agreeing to the provision of delegated nursing tasks.

- The nurse to analyze the complexity of the nursing task that is considered for delegation.
- The nurse to evaluate the ability of the delegatee to perform the delegated nursing task in the absence of direct nurse supervision.
- The nurse to determine any appropriate additional training the delegatee must complete prior to tasks being delegated.
- The nurse to teach the delegatee the specific delegated nursing task for each patient. The teaching requirements may vary depending upon the degree of complexity of the delegated task.
- The nurse to inform the delegatee that the delegated nursing task is specific to a consumer and is not transferable
- The nurse to initially observe the delegatee performing the delegated task.
- The nurse to provide documentation of training and a written plan for nursing supervision and re-evaluation of the delegated nursing tasks.
- The nurse to assure the delegatee is aware of changes in patient status requiring reassessment by the nurse.
- The nurse to provide written instructions to the delegatee on delegated nursing tasks.

4. NCQAC should define "stable and predictable" condition.

5. Delegation should only occur for patients who are in a stable and predictable condition in community based settings who are cared for by: Adult Family Homes (RCW 70.128.010), Boarding Homes (RCW 18.20.020), Home and Community Services (RCW 74.39A), Children's Foster Care and Group Care (RCW 74.15.020), Community Developmental Disability Residential Programs (RCW 71A), and Home Health and Hospice Agencies (RCW 70.127). Nurse delegation may only occur to the extent limited by provisions of the settings' statute.

6. Public school districts and private schools should be subject to nurse delegation protocols except for those tasks covered under RCW 28A.210.260-290.

7. The registered nurse should have total discretion and final decision making in determining the appropriateness of delegation and the number of persons to whom delegated tasks are taught.

8. The NCQAC should develop a model informed consent form to be used by nurses to provide consumers, delegatees and the delegating nurse information regarding the delegation process, the rights of refusal by the delegatee and consumer and agreement by all parties of the delegation of the nursing task. The delegatee should have the right to refuse the assignment of a delegated task. The consumer should have the right to refuse the delegation of nursing tasks.

9. The nurse and delegatee should be held accountable for their own actions in the delegation process. Nurses acting within the protocols of their delegation authority should be immune from suit in any action, civil or criminal, performed in the course of their delegation duties. Delegatees following written delegation instructions from RNs performed in the course of their duties should be immune from suit in any civil or criminal action.

10. No one should coerce a nurse into compromising client safety by requiring the nurse to delegate if the nurse determines it is inappropriate to do so. Nurses should not be subject to any employer reprisal or NCQAC disciplinary action for refusing to delegate tasks or refusing to provide the required training for delegation if the nurse determines delegation may compromise client safety. Delegatees should not be subject to any employer reprisal or NCQAC disciplinary action for refusing to accept delegation of a nursing task.

11. The Legislature should consider amending the Long Term Care Ombudsman Program (RCW 43.190) to require nurses and delegatees to report coercion to delegate nursing tasks jeopardizing consumer safety.

12. The DSHS, NCQAC, and DOH should develop and clarify relevant rules and reimbursement policies to increase the availability of services.

13. The Department of Health in consultation with NCQAC, DSHS, and other interested parties should submit a report on nurse delegation to the legislative health committees by December 1997. DSHS should provide outcome evaluation data from settings regulated by DSHS. These outcomes should include a review of quality assurance and patient access to care. DSHS should also implement communication strategies to assure that patients and providers have a complete understanding of the delegation process and the implications of current or revised statutes and rules. The NCQAC should provide data on incidence of harm to the public due to delegating nursing tasks.

Current Regulation

Registered nurses are currently authorized to delegate "selected nursing functions to others in accordance with their education, credentials, and demonstrated competence" (Washington Administrative Code [WAC] 246-839-700). This delegation is limited by RCW 18.79.260 which states that the following tasks "shall not be done by any person not so licensed ... administer medications, treatments, tests and inoculations, whether or not the severing or penetrating of tissues is involved and whether or not a degree of independent judgment and skill is required." Licensed practical nurses are allowed to perform these tasks under the direction of a registered nurse or physician. Registered and certified nursing assistants are authorized in RCW 18.88A.030 to "assist in the care of individuals as delegated by and under the direction and supervision of a licensed *(registered)* nurse or licensed practical nurse."

RCW 18.88.030(5) allows "nursing care of the sick, without compensation, by any unlicensed person who does not hold herself or himself out to be a registered nurse." Under RCW 28A.210.260 - 290, public school districts and private schools may (with designated physician or nurse consultation, training and supervision) "provide for the administration of oral medication of any nature to students who are in the custody of the school district or school at the time of administration" and "provide for clean intermittent bladder catheterization of students, or assisted self-catheterization of students."

Proposal for Sunrise Review

In 1993, the Legislature asked the department to review House Bill 1409. The department recommended that nurses be allowed to delegate specific tasks in residential programs for people with disabilities. The Legislature then forwarded House Bills 2132 and 2133 for review by the department. These bills would have allowed nurses to delegate specific tasks to a new level of registered nursing assistants in specific community-based settings *(foster care and community-based long-term care)*. In September 1994, the proponent, the Department of Social and Health Services (DSHS), submitted a revised proposal which broadened the scope of the review. The revised proposal offered much less specificity of the tasks that could be delegated and no specific site limitation as in the original proposal. Additionally, the revised proposal would allow delegation to regulated and/or non-regulated personnel. The actual legislative language is attached. DSHS is continuing to revise their proposal based on the sunrise process. The following document is based on the original DSHS proposal, with the findings and recommendations incorporating input from the public hearing and roundtable discussion.

Summary of Information Collected/Submitted

Following is an overview of the issues raised by various interested parties on the specific components of the original DSHS proposal. This is a paraphrasing of all such information. It does not reflect the department's findings, which are found in a later section of this report.

1. Settings

Applicant Original Proposal:

The proposal allows registered nurses to delegate any nursing care tasks in any settings, regardless of funding source.

Statement for:

The proposal is based on the assumption that nurses are capable of using their professional judgment to determine whether a task can be safely delegated. The philosophy of the Nurse Practice Act values the autonomy of the registered nurse. The medical condition of the patient and the appropriateness of delegation will be assessed by the nurse, regardless of the setting. If the patient is not medically stable, tasks will not be delegated. There may be appropriate reasons to delegate tasks in all settings. Restricting delegation by practice setting devalues the nurses' ability to use professional judgment.

Statement against:

Delegation should not be allowed in hospitals or nursing homes. The level of patient care in acute care facilities is generally much greater than in community-based settings. The potential of unfavorable consequences is greater in these institutional settings with less medically stable clients. Larger institutions require a greater level of caution in delivering care because there is more risk of spreading infections.

In all settings, the levels of patient care are higher than ever. There are patients who require complex care in many community settings. This varies greatly from setting to setting. Safeguards need to be in place to ensure quality of care.

Nurse delegation may be more appropriate in settings where nurses are available for constant supervision and training.

2. Task Limitations

Applicant Original Proposal:

Any nursing care task can be delegated by a registered nurse, except those that require the assessment or judgment of a registered nurse.

Statement for:

Appropriate tasks to be delegated depend on the patient's needs, setting, and competence of the delegatee. This proposal allows the registered nurse the flexibility to assess both the patient and potential delegatee in each situation. Additionally, it allows the registered nurse to delegate appropriate nursing care tasks. Creating a task list will limit the autonomy of the nurse and the appropriate safe delegation of tasks. Nurses may develop a false sense of security if there is a task list from which to delegate.

Statement against:

If there is no limitation on tasks to be delegated, nurses may feel pressured to delegate inappropriately. There should be, at a minimum, a list of tasks which absolutely could not be delegated. Additionally, it may be appropriate to define tasks to be delegated based on the level of training of the delegatee and the medical stability of the patient.

Consumers reported there are procedures not being performed at this time which do not appear to be prohibited by the Nurse Practice Act. There is confusion about where these limitations originated. DSHS should evaluate limitations in their reimbursement policies before recommending changes to the Nurse Practice Act. DSHS should also better define the tasks to delegate by researching what tasks are currently needed in each setting and to what extent patients are being required to return to nursing homes based on unavailability of these tasks.

The Nursing Care Quality Assurance Commission (NCQAC) should delineate the tasks that can be delegated. This is more consistent with the philosophy of the Nurse Practice Act and allows more flexibility to revise the list as needed.

3. Regulation and Training of Delegatee

Applicant Original Proposal:

A registered nurse may delegate to unlicensed persons, including registered and certified nursing assistants.

Statement for:

Regulation of the delegatee is not necessary. There are several safeguards in place to protect the public. The registered nurse will exercise independent judgment and will have total autonomy in deciding whether or not to delegate. Set protocols for delegation will be defined by the NCQAC and will include, at a minimum: assurance of total nurse discretion in delegation decisions; allowance of delegation only to patients with stable and predictable conditions; and requirements for patient specific assessment, training, written documentation, supervision, and reevaluation by the registered nurse.

The majority of settings where this delegation would occur are already otherwise regulated. The patient specific training would include potential side effects, warning signs, etc. Currently, family members with no formal training are safely performing even more complex tasks under the direction of a licensed health professional.

Statement against:

If the delegatee is not under the Uniform Disciplinary Act, the public has no recourse if harm occurs. Additionally, there is no way to track the delegatee. A delegatee could inflict harm to a patient in one setting, leave that setting, and go to another setting to practice. Regulation provides for background checks, tracking, disciplinary action, and regulatory enforcement. Facility regulations will not protect the public because there is no consistency in requirements for regulation across facilities.

Nurses would have no assurance that the person to whom they are delegating has an appropriate knowledge base. The delegatee must have minimum training requirements. The Certified Nursing Assistant education requirements should be the minimum.

The NCQAC could study appropriate minimum education requirements and report back to the Legislature.

The role of the LPN could be expanded to perform many tasks. The LPN is licensed, under the Uniform Disciplinary Act and has met certain educational requirements.

4. Liability

Applicant Original Proposal:

The delegatee is liable for any negative outcomes if he or she does not perform the task according to the documented written instructions. The registered nurse would only be liable if delegation protocols or standards of practice are not followed or if written instructions are not provided to the delegatee.

Statement for:

This protects the nurse from liability if protocols and standards of practice are followed. It also requires accountability from the person performing the task and it establishes a framework by which legal claims may be litigated.

Statement against:

Liability cannot be waived. The nurse's license will be at risk. If harm occurs to a patient by an unlicensed individual, the patient will have no recourse against the unregulated individual and will seek compensation from the nurse. The unregulated individual may be encouraged to assume total liability by insurance carriers.

5. Interactions Among Other Professionals

Applicant Original Proposal:

No payment source or non-registered nurse may in any way coerce a registered nurse to delegate if, in the professional judgment of the nurse, it is inappropriate to do so.

Statement for:

The basis of the proposal rests on the registered nurse's ability to use professional judgment and assessment in determining whether to delegate. Facilities and employers will protect their own liability and will not risk the health of the patients by pressuring nurses to delegate.

Statement against:

Nurses are being pressured to delegate currently authorized tasks based on overwhelming patient loads. If this delegation authority is expanded to more complex tasks, the risk to the public will greatly increase. The DSHS proposal outlines limiting non-registered nurse coercion. Many registered nurse

managers will be pressured to encourage delegation to meet budget requirements. Establishing ratios of nurses to patients and/or delegatees based on patient acuity and setting would be difficult to ascertain due to the unique nursing requirements for each patient. "Whistleblower" provisions may help protect the nurse from pressures to delegate inappropriately.

Findings

1. Providing nurses with the option to delegate specific nursing tasks in community settings can benefit the public by creating more access to care in the community.

   Consumers and providers of community based services reported a need for more nursing services to be available in the community. Individuals who are already caring for people could provide additional services under this proposal if the nurse determined it was appropriate.

2. There is a potential for harm to the public if delegation is not allowed and if delegation occurs without appropriate safeguards.

   Consumers reported the unavailability of nurses to perform tasks leading to delays in receiving services. The inability of current care providers to perform specific tasks limits patient choice. However, allowing delegation of complex tasks without appropriate safeguards in place could lead to patient harm.

3. Registered nurse assessment, judgment and discretion is critical for the appropriate delegation of tasks.

   The nurse must maintain total authority and decision making in the delegation process. Nurses have the knowledge, skills and judgment to properly assess the needs of the patient and the ability of the potential delegatee to perform tasks.

4. Requiring the delegatee to be a credentialed health professional will assist in protecting the public.

   Assuring that the delegatee is under the Uniform Disciplinary Act provides a system to prevent negligent individuals from continuing to practice as a credentialed health personnel (e.g. registered or certified nursing assistant).

5. Formal educational requirements for all delegatees is not necessary and could act as a barrier to access.

   Minimum formal education requirements for all delegatees are not necessary if other training provisions include requiring the nurse to conduct patient and task specific training and giving the nurse the option to require the delegatee to take additional coursework, when appropriate. Consumers strongly requested the absolute minimum training and credentialing requirements for delegatees because of the current difficulties on finding willing care providers.

6. The majority of the need in the community is for less invasive nursing tasks.

The majority of consumer testimony focused on the need for nursing tasks that are less invasive, which a registered nurse could delegate to other care providers. These included: oral and topical medications and ointments; nose, ear, and eye drops and ointments; dressing changes and catheterization using only clean technique; suppositories; enemas; colostomy care; blood glucose monitoring; insulin administration; and gastrostomy feedings in established, wound-healed gastrostomies. While these tasks do require nursing assessment and judgment to determine whether and under what guidelines to delegate, they do not pose a risk to public health if delegated with appropriate safeguards and total nurse discretion and oversight.

7. Consumers reported a need for occasional nursing services to be provided by home care agencies.

   Home care agencies are prohibited in statute from providing these tasks. DSHS is working with the department and home care associations to evaluate this issue. If the home care limitations to provide nursing services are removed, home care settings should be included under the nurse delegation provisions.

8. The need for nurse delegation is limited to patients with stable and predictable conditions in community based settings.

   The rationale for, testimony in favor of, and need for nurse delegation all focused on the need for delegation of additional tasks in community settings. Public testimony indicated the potential for harm without delegation of nursing tasks, was based on the unavailability of a provider on-site to perform the task. Additionally, the proposal only allows nurses to delegate tasks for patients who are in a "stable and predictable" condition.

9. Registered nurses and nursing assistants expressed great concern about liability for delegated nursing tasks.

   It would be beneficial to clarify the responsibility and accountability of all persons involved in the delegation process. Delegating tasks with greater complexity could increase the liability for nurses and delegatees.

10. There is a potential for nurses to be coerced to delegate tasks and potential for delegatees to be coerced to perform delegated tasks because of overwhelming patient loads and budget considerations.

    There is a potential for patient harm if a nurse is coerced into delegating tasks or the delegatee is coerced into performing tasks when they determine it is

inappropriate to do so. Provisions need to be made that allow nurses and delegatees to confidentially report incidents of coercion.

11. Unlicensed personnel are currently not being allowed to perform some tasks which do not appear to be otherwise prohibited in statute.

    There is a great deal of confusion among consumers, providers, and agencies about who may perform certain tasks, in what settings, and under what circumstances. For example, range of motion exercises, basic foot care (clipping toe nails), and reminding patients to take medications were all referenced by consumers as tasks that could not be delegated. The Nurse Practice Act does not appear to limit any of these tasks. This lack of clarity is impeding access to services in community settings.

12. Tuberculosis is a growing public health concern throughout the community.

    Tuberculosis testing is required for all workers in the settings being recommended by the department for nurse delegation. Therefore, no specific recommendation has been developed as part of the nurse delegation report. However, if delegation is allowed in other settings tuberculosis testing should be considered.

Recommendations

1. Registered nurses should have the option to delegate to certified and registered nursing assistants, or other credentialed health personnel the following nursing tasks: oral and topical medications and ointments; nose, ear, and eye drops and ointments; dressing changes and catheterization using only clean technique; suppositories; enemas; colostomy care; blood glucose monitoring; insulin administration; and gastrostomy feedings in established, wound-healed gastrostomies.

   Rationale: Providing nurses with the option to delegate may enhance the access to care for many consumers in the community. These tasks were identified as the most commonly needed by consumers in the community. Listing the tasks in statute helps to ensure that consumers needs will be met.

2. The following procedures should not be delegated: sterile procedures; crossing the barrier of the skin (except for blood glucose monitoring and insulin administration); and management, manipulation, or care for intravenous devices, intravenous lines, or infusion of intravenous substances.

   Rationale: The performance of these procedures calls for continuous nursing judgment and assessment and should never be delegated.

3. The Nursing Care Quality Assurance Commission should adopt nursing task delegation protocols and make them available to the public by July 1, 1996.

   Protocols for this delegation must require the following:

   - The nurse to thoroughly assess the patient before consideration of delegation.
   - The nurse to obtain written consent signed by the consumer, delegatee, and registered nurse agreeing to the provision of delegated nursing tasks.
   - The nurse to analyze the complexity of the nursing task that is considered for delegation.
   - The nurse to evaluate the ability of the delegatee to perform the delegated nursing task in the absence of direct nurse supervision.
   - The nurse to determine any appropriate additional training the delegatee must complete prior to tasks being delegated.
   - The nurse to teach the delegatee the specific delegated nursing task for each patient. The teaching requirements may vary depending upon the degree of complexity of the delegated task.
   - The nurse to inform the delegatee that the delegated nursing task is specific to a consumer and is not transferable
   - The nurse to initially observe the delegatee performing the delegated task.

- The nurse to provide documentation of training and a written plan for nursing supervision and re-evaluation of the delegated nursing tasks.
- The nurse to assure the delegatee is aware of changes in patient status requiring reassessment by the nurse.
- The nurse to provide written instructions to the delegatee on delegated nursing tasks.

Rationale: These protocols establish guidelines for nurses and delegatees. The protection of the public can only be assured if these minimum safeguards are in place.

4. NCQAC should define "stable and predictable" condition.

   Rationale: A definition of "stable and predictable" is essential to describe the condition of a consumer eligible for consideration of delegation of nursing tasks.

5. Delegation should only occur for patients who are in a stable and predictable condition in community based settings who are cared for by: Adult Family Homes (RCW 70.128.010), Boarding Homes (RCW 18.20.020), Home and Community Services (RCW 74.39A), Children's Foster Care and Group Care (RCW 74.15.020), Community Developmental Disability Residential Programs (RCW 71A), and Home Health and Hospice Agencies (RCW 70.127). Nurse delegation may only occur to the extent limited by provisions of the settings' statute.

   Rationale: These settings were identified as needing nurse delegation to meet consumer needs. Acute care settings were excluded because the patient acuity levels are generally much higher and require complex care and frequent nursing assessment and judgment.

6. Public school districts and private schools should be subject to nurse delegation protocols except for those tasks covered under RCW 28A.210.260-290.

   Rationale: The current process used in schools for catheterization and administration of medicine has been successful. However to ensure protection of the students, tasks not covered under RCW 28A.210-290 should follow the nurse delegation protocols.

7. The registered nurse should have total discretion and final decision making in determining the appropriateness of delegation and the number of persons to whom delegated tasks are taught.

   Rationale: The nurse has the professional judgment, knowledge and experience to ensure that only appropriate delegation occurs. The variety of patient needs

and acuity levels requires nursing judgment to determine safe and competent care.

8. The NCQAC should develop a model informed consent form to be used by nurses to provide consumers, delegatees and the delegating nurse information regarding the delegation process, the rights of refusal by the delegatee and consumer and agreement by all parties of the delegation of the nursing task.

    a. The delegatee should have the right to refuse the assignment of a delegated task.
    b. The consumer should have the right to refuse the delegation of nursing tasks.

    Rationale: There is a need for documented communication to ensure all parties are informed about their rights and responsibilities in the delegation process.

9. The nurse and delegatee should be held accountable for their own actions in the delegation process.

    a. Nurses acting within the protocols of their delegation authority should be immune from suit in any action, civil or criminal, performed in the course of their delegation duties.
    b. Delegatees following written delegation instructions from RNs performed in the course of their duties should be immune from suit in any civil or criminal action.

    Rationale: Clear parameters establish legislative intent and provide a framework for litigation. This language clarifies the responsibilities and accountability of all persons involved in the delegation process.

10. No one should coerce a nurse into compromising client safety by requiring the nurse to delegate if the nurse determines it is inappropriate to do so.

    a. Nurses should not be subject to any employer reprisal or NCQAC disciplinary action for refusing to delegate tasks or refusing to provide the required training for delegation if the nurse determines delegation may compromise client safety.
    b. Delegatees should not be subject to any employer reprisal or NCQAC disciplinary action for refusing to accept delegation of a nursing task.

    Rationale: Recognition of the potential for coercion of nurses to delegate and delegatees to accept assignment of a nursing task is necessary to provide a mechanism to prevent coercion and the compromising of public safety.

11. The Legislature should consider amending the Long Term Care Ombudsman Program (RCW 43.190) to require nurses and delegatees to report coercion to delegate nursing tasks jeopardizing consumer safety.

    Rationale: This program allows patients to report complaints and could be expanded to allow nurses and delegatees to report coercion.

12. The DSHS, NCQAC, and DOH should develop and clarify relevant rules and reimbursement policies to increase the availability of services.

    Rationale: This would remove barriers to access by eliminating the confusion about acceptable and reimbursable services rendered by care providers, which do not require legislative action.

13. The Department of Health in consultation with NCQAC, DSHS, and other interested parties should submit a report on nurse delegation to the legislative health committees by December 1997. DSHS should provide outcome evaluation data from settings regulated by DSHS. These outcomes should include a review of quality assurance and patient access to care. DSHS should also implement communication strategies to assure that patients and providers have a complete understanding of the delegation process and the implications of current or revised statutes and rules. The NCQAC should provide data on incidence of harm to the public due to delegating nursing tasks.

    Rationale: This report provides an evaluation of nurse delegation procedures. A quantitative and qualitative analysis of nurse delegation and its impacts on the access to, and quality of care will help the legislature make any needed changes to the nurse delegation statute.

Participant List

Janet Adams
Sarah Bacica, DSHS
Linda Baer, DHHS-Division on Aging
The Honorable Clyde Ballard, Washington State Representative
Ken Bertrand, Group Health Cooperative
Chris Bodin, RN, 1199 Northwest Service Employees International Union
Alice Bohlman, Seattle/King County Division on Aging
Vicky Bolinsky, Eastern Washington Area Agency on Aging
Jean Borden, DOH Community and Family Health
Dave Broderick, Washington State Hospital Association
Pat Brown, DOH, Health Systems Quality Assurance
Claire Michelle Burns
Donna Campbell, Nursing Care Quality Assurance Commission
Nancy Carlson, Marianwood
Robin Carlson, Crista Long Term Care
Kirsten Chase, St. Martin's College
Janis Clifton
The Honorable Eileen Cody, Washington State House of Representatives
Nancy Connell, Valley Medical Center
The Honorable Steve Conway, Washington State House of Representatives
Barbara Cornell, Cascade Vista Convalescent Center
Jerry Crosby, Professional Registry of Nursing
Marilyn Davis, Marianwood
Lynne Dearing, Grays Harbor College
Ann DeQuit, Cascade Vista
Louise DeSaguirantru, 1199 Northwest Service Employees International Union
Michelle Dirks, St. Lukes Extended Care Center
Michael Docter, CRSA UCP of Washington, ARC
Ed Dolle, Washington State Nurses Association
Maria Dunn, Yakima Convalescent
Marc Earls, Service Employees International Union
Cindy Ehlke, Valley Medical Center
Nick Federici, Washington State Nurses Association
Bob First
Shannon Fitzgerald, Nursing Care Quality Assurance Commission
Alan Flack, Adult Family Homes of Whidbey Island
Victoria Fletcher, Nursing Care Quality Assurance Commission
Darlene Flowers, Foster Parents Association of Washington
S. Frankus, AACN
Marianne Fuehr, Providence Hospital
Joan Garner, RN
JoAnn Gazdik, Marianwood
Gale Gehre, Veterans Administration Hospital
Susan Ghoddousi, DSHS, Nursing Home Services
Linda Godfrey, Southcrest Nursing and Rehabilitation Center
Bennette Goo, Cascade Vista Convalescent Center
Ivy Gratias, Adult Licensed Family Homes of Washington
Marge Griffith, Visiting Nurses Services
Jennifer Gunther Harris
Linda Harrison, Nursing Care Quality Assurance Commission
Gail Heistand, Washington Association of Area Agency on Aging

A.D. Hill
Ginger Hill
Virginia Hilton, Tacoma Lutheran Home
Nan Hogan, Licensed Practical Nurse Association
Linda Hoogendijk, Spokane Community College
Aaron Hughes, Catholic Community Services
Carolyn Hunter, Nursing Care Quality Assurance Commission
Evan Iverson, Senior Citizens Lobby
Nancy James, Home Care Association of Washington
Marcy Johnson, Local #1199
Susan Johnson, Washington State Service Employees Council
Trixie Johnson, Tri State Memorial Hospital
Jane E. Jones, DSHS, Nursing Home Services
Jo Ellen Jordan, Chore and Home Care Personal Service Provider
Charline Kelly, Nursing Care Quality Assurance Commission
Colleen Kirkland, St. Peter Hospital
William King, DSHS, AASA
R. Koren, Adult Family Homes
Shirley Kurtz, 1199 Northwest Service Employees International Union
Jim Lindley, Center for Independence
Debbie Link, 1199 Northwest Service Employees International Union
JoAnn Linville, Nursing Care Quality Assurance Commission
Lisa Livingston-Montague, Gig Harbor Wellness Center
M. John Lucas, Western State Hospital
Jerry Luedke, Respiratory Care Group
Mark Lundgren, Adaptive Services
Judy Maire, Office of the Superintendent for Public Instruction
Kathryn Marks, Swedish Medical Center
Jerry Marsh, Senior Services of South Sound
Joan Matheson, Service Employees International Union
Pam Matthews, Oregon Home Health
Sheila Masteller, Nursing Care Quality Assurance Commission
Patricia Mauro, Adult Family Home Care Provider
Joy McBride, Lewis-Mason-Thurston Area Agency on Aging
Gail McGaffick, Home Care Association of Washington
JoAnna McGeoghegan, Assured Home Health and Hospice
Ellie Menzies, National Union of Hospitals and Healthcare Employees
Judy Meyers, Peter Creek Retirement Community
Madoline Miller, Marianwood
W. Brent Morgan, WSNA
Marsha Murphy, Southcrest Nursing and Rehabilitation Center
Cynthia Napir, Seattle-King County Area Agency on Aging
Carl Nelson, Washington State Medical Association
Sharon Ness, United Staff Nurses Union
Jan Nestler, Washington State Association of Adult Day Care
Rose-Marie Neumann, Nursing Care Quality Assurance Commission
Patrick O'Neill, Tacoma Lutheran Home and Retirement
Lorraine Overmyer, Nursing Care Quality Assurance Commission
Karen Parker, Evergreen Pharmaceutical Supply
Randall Parr, Service Employees International Union
Patrick Pasion, Adult Family Home Providers, Olympia
Pam Pasquale, Washington State Nurses Association
Sharon Patrick, Adult Licensed Homes

Barbara Pederson
Jeff Peterson
The Honorable Margarita Prentice, Washington State Senator
Gerald Reilly, Washington Health Care Association
Terri Rekawek, Assured Home Health
Betty Rae Remsburg, Columbia River Area Agency on Aging
Irma Robbins, Senior Citizens Lobby
Sue Roberts
Jan Roediger, SPSCC
Nancy Rowe, Mother of Joseph Care Center
Joan Rustary, SWAA-Human Services Council
Kathy Salmen, Virginia Mason Medical Center
Marilyn Savage, United Staff Nurses Union
Laura Schraw, Green River Terrace
Lynn Scott, Bellevue Community College
Debra Seacrest
Jo Ann Shoemaker, Nursing Care Quality Assurance Commission
Mary Lynne Short, Marion Consulting
Scott Sigmon, Washington Health Care Association
June Simms
Lois Simpko, 1199 Northwest Service Employees International Union
Connie Simpson, Assured Home Care
Laurie Sue Smith, 1199 Northwest Service Employees International Union
Sandy Smith, SWAA-Human Services Council
Jamie Stevens, Washington Speech and Hearing Association
Jean Stevens, Nursing Care Quality Assurance Commission
Trish Stewart, DSHS AAFS
Elaine Stoveall, SW Washington Adult Care Providers Association
Mary Strunk, Swedish Medical Center
Melissa Stubenrauch, National Association of Nursing Administration
Jeffrey Summers, Island Villa Adult Family Homes
Lana Tarbutton, SW Washington Adult Care Providers Association
Nancee Tardif, Washington Health Care Association
Wanda Terry, DSHS
Lisa Thatcher
Florence Tomei, Assured Home Health
Stephen Torak, Adult Family Homes
Marilyn Trent, LMTAAA
Karen Tynes, Washington Association of Homes for the Aging
Jo Waidley, DOH, Health Systems Quality Assurance
Elaine Walker, Regency at Renton
Ellen Watson, DVA, WVH
Pat White
Mary Jo Wilcox
Janice Wilder, Mother of Joseph Care Center
Don Williams, DOH, Pharmacy Board
Maxine Williams
Georgia Wolfe
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Wendy Young

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AN ACT Relating to nursing task delegation; amending RCW 18.88A.030 and 18.79.260; and adding new sections to chapter 18.79 RCW.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

Sec. 1. RCW 18.88A.030 and 1994 sp.s. c 9 s 709 are each amended to read as follows:

(1) A nursing assistant may assist in the care of individuals as delegated by and under the direction and supervision of a licensed (registered) nurse or licensed practical nurse.

(2) A health care facility shall not assign a nursing assistant-registered to provide care until the nursing assistant-registered has demonstrated skills necessary to perform competently all assigned duties and responsibilities.

(3) Nothing in this chapter shall be construed to confer on a nursing assistant the authority ((~~to administer medication or~~)) to practice as a licensed (registered) nurse or licensed practical nurse as defined in chapter 18.79 RCW.

(4) Certification is voluntary for nursing assistants working in health care facilities other than nursing homes unless otherwise required by state or federal law or regulation.

(5) The commission may adopt rules to implement the provisions of this chapter.

Sec. 2. RCW 18.79.260 and 1994 sp.s. c 9 s 426 are each amended to read as follows:

A registered nurse under his or her license may perform for compensation nursing care, as that term is usually understood, of the ill, injured, or infirm, and in the course thereof, she or he may do the following things that shall not be done by a person not so licensed, except as provided in RCW 18.79.270:

(1) At or under the general direction of a licensed physician and surgeon, dentist, osteopathic physician and surgeon, podiatric physician and surgeon, physician assistant, osteopathic physician assistant, or advanced registered nurse practitioner acting within the scope of his or her license, administer medications, treatments, tests, and inoculations, whether or not the severing or penetrating of tissues is involved and whether or not a degree of independent judgment and skill is required except as provided in sections 3 through 8 of this act;

(2) Delegate to other persons engaged in nursing, the functions outlined in subsection (1) of this section;

(3) Delegate to certified and registered nursing assistants and other health personnel credentialed under chapter 18.130 RCW the functions outlined in sections 3 through 8 of this act;

(4) Instruct nurses in technical subjects pertaining to nursing;

((~~(4)~~)) (5) Hold herself or himself out to the public or designate herself or himself as a registered nurse.

NEW SECTION. **Sec. 3.** The legislature recognizes that nurses have been successfully delegating nursing care tasks to family members and auxiliary staff for many years. The opportunity to delegate to registered and certified nursing assistants and other credentialed health personnel is essential to enhance the viability and quality of care in community health and long-term care services. It is not the intent of the legislature to require all caregivers in the settings outlined in section 4 of this act to be credentialed health personnel. Only those caregivers who carry out delegated nursing tasks as delineated in this section are required to be registered or certified nurse assistants or credentialed health personnel.

(1) Registered nurses shall have the option to delegate to certified and registered nursing assistants, or other credentialed health personnel the following tasks: Oral and topical medications and ointments; nose, ear, and eye drops and ointments; dressing changes and catheterization using only clean technique; suppositories; enemas; colostomy care; blood glucose monitoring; insulin administration; and gastrostomy feedings in established, wound-healed gastrostomies.

(2) The following procedures shall not be delegated: Sterile procedures; crossing the barrier of the skin, except for blood glucose monitoring and insulin administration; and management, manipulation, or care for intravenous devices, intravenous lines, or infusion of intravenous substances.

(3) Delegation should only occur for patients with a "stable and predictable" condition in the following community-based settings who are cared for by: Adult family homes (RCW 70.128.010), boarding homes (RCW 18.20.020), home and community services (chapter 74.39A RCW), children's foster care and group care (RCW 74.15.020), community developmental disability residential programs (Title 71A RCW), and home health and hospice agencies (chapter 70.127 RCW). In addition to this section and sections 4 through 8 of this act, nurse delegation is subject to the provisions of applicable provisions of law.

NEW SECTION. **Sec. 4.** (1) The commission shall define "stable and predictable" conditions.

(2) The commission shall develop a model informed consent form for nurses to use to provide consumers, delegatees, and the delegating nurse information regarding the delegation process, the rights of refusal by the delegatee and consumer, and agreement by all parties of the delegation of the nursing task.

(3) The commission shall develop delegation protocols that shall be available to the public by July 1, 1996, which include the following requirements:

(a) Thorough patient assessment by the nurse before consideration of delegation.

(b) The nurse obtaining written consent signed by the consumer, delegatee, and registered nurse agreeing to the provision of delegated nursing tasks.

(c) The nurse analyzing the complexity of the nursing task that is considered for delegation.

(d) The nurse evaluating the ability of the delegatee to perform the delegated nursing task in the absence of direct nurse supervision.

(e) The nurse determining any appropriate additional training requirements the delegatee must complete prior to tasks being delegated.

(f) The nurse teaching the delegatee the specific delegated nursing task for each patient. The teaching requirements may vary depending upon the degree of complexity of the delegated task.

(g) The nurse informing the delegatee that the delegated nursing task is specific to a consumer and is not transferable.

(h) The nurse initially observing the delegatee performing the delegated task.

(i) The nurse providing written instructions to the delegatee on delegated nursing tasks.

(j) The nurse assuring the delegatee is aware of changes in patient status requiring reassessment by the nurse.

(k) The nurse providing documentation and a written plan for nursing supervision and reevaluation of nursing tasks.

NEW SECTION. **Sec. 5.** No one shall coerce a nurse into compromising client safety by requiring the nurse to delegate if the nurse determines it is inappropriate to do so. The registered nurse shall have total discretion and final decision making in determining the appropriateness of delegation.

(1) The nurse, delegatee, and consumer must sign an informed consent form regarding the delegation process, rights of refusal, and agreement to delegation of nursing tasks.

(2) Nurses shall not be subject to any employer reprisal or commission disciplinary action for refusing to delegate tasks or refusing to provide the required training for delegation if the nurse determines delegation may compromise client safety.

(3) The delegatee shall have the right to refuse the assignment of a delegated task and the consumer shall have the right to refuse the delegation of nursing tasks.

(4) Delegatees shall not be subject to any employer reprisal or commission disciplinary action for refusing to accept delegation of a nursing task.

NEW SECTION. **Sec. 6.** (1) The nurse and delegatee shall be held accountable for their own actions in the delegation process.

(2) Nurses acting within the protocols of their delegation authority are immune from suit in any action, civil or criminal, performed in the course of their delegation duties.

(3) Delegatees are immune from suit in any civil or criminal action, when following written delegation instructions from registered nurses, and performed in the course of their duties.

NEW SECTION. **Sec. 7.** Public and private schools are subject to nurse delegation protocols under RCW 18.88A.030 and 18.79.260 and sections 3 through 6 of this act, except those tasks under RCW 28A.210.260 through 28A.210.290. Delegation for any nursing tasks not covered under RCW 28A.210.260 through 28A.210.290 is regulated by the nurse practice act and commission delegation protocols.

NEW SECTION. **Sec. 8.** The department of health in consultation with nursing care quality assurance commission, department of social and health services, and other interested parties shall submit a report on nurse delegation to the legislative health committees by December 1997. The department of social and health services should provide outcome evaluation data from settings it regulates. These outcomes should include a review of quality assurance and patient access to care. The department of social and health services shall also implement communication strategies to assure that patients and providers have a complete understanding of the delegation process and the implications of current or revised statutes and rules. The commission shall provide data on incidence of harm to the public due to the delegation of nursing tasks, reports of nurses being coerced to delegate, and coercion of delegatees to accept delegated nursing tasks.

NEW SECTION. **Sec. 9.** Sections 3 through 8 of this act are each added to chapter 18.79 RCW.

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I. Overall Legislative Intent and Findings **DRAFT**

AN ACT Relating to ; amending ; adding neew sections to ; and repealing .

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

Sec. 1. RCW 74.39A.007 and 1993 c 508 s 2 are each amended to read as follows:

It is the legislature's intent that:

(1) Home and community services, which generally are preferred by consumers and more cost-effective than other long-term care services, be greatly expanded and promoted;

(2) Consumers of long-term care services be informed of options available to them;

(3) A system of continuous quality improvement be developed for home and community services that will enhance the viability of such services for a greater number of consumers, especially the more vulnerable consumers, and lead to higher consumer confidence in and use of such services;

(1) Long-term care services administered by the department of social and health services include a balanced array of health, social, and supportive services that promote individual choice, dignity, privacy and the highest practicable level of independence, and home-like settings;

(2) Home and community-based services be developed, expanded, or maintained in order to meet the needs of consumers and to maximize effective use of limited resources;

(6) The involvement of registered nurses in community based long-term care settings be expanded in order to increase the opportunities for citizens to receive health and long-term care services in their homes and communities and to enhance the quality of those services.

(3) Long-term care services be responsive and appropriate to individual need and also cost-effective for the state;

(4) Nursing home care is provided in such a manner and in such an environment as will promote maintenance or enhancement of the quality of life of each resident and timely discharge to a less restrictive care setting when appropriate; and

(5) State health planning for nursing home bed supply take into account increased availability of other home and community-based service options.

DRAFT

NEW SECTION. RCW 18.79 ____. Delegation of Nursing Care Tasks to Unlicensed Persons. The legislature recognizes that registered nurses have been successfully delegating nursing care tasks to family members and auxiliary staff for many years. The opportunity for a registered nurse to delegate to other unlicensed persons is essential to enhancing the viability and quality of care in health and long-term care.

(1) A registered nurse may not delegate the entire nursing process to an unlicensed person but may delegate interventions or nursing care tasks, such as the administration of subcutaneous injectable medications and the administration of non-injectable medications, according to delegation protocols.

(2) Delegation protocols are not intended to govern the settings in which delegation may occur but to ensure that nursing services have a consistent nursing practice standard upon which the public may rely including the standards of delegation.

(3) The Nursing Care Quality Assurance Commission will, in consultation with health care professionals, DSHS, and consumers, develop nurse delegation protocols which will facilitate the ability of a registered nurse to delegate a nursing care task to an unlicensed person.

(4) Nursing task delegation protocols will include at least the following:

( ) Ensure that determination of the appropriateness of delegation of a nursing task is at the discretion of the registered nurse and is considered a serious responsibility of the registered nurse;

( ) Allow delegation of a nursing care task only for consumers who have a stable and predictable condition;

( ) Require the registered nurse to ascertain the consumers choice regarding the provision of a nursing task through delegation;

( ) Require assessment by the registered nurse of the ability of the unlicensed person to perform the delegated nursing task in the absence of direct nurse supervision;

( ) Require the registered nurse to analyze the complexity of the nursing task that is considered for delegation;

( ) Require the teaching of the nursing care task to the unlicensed person;

( ) Require nursing supervision of the delegated nursing task;

( ) Require instruction to the unlicensed person that the delegated nursing task is specific to a consumer and is not transferrable;

( ) Require documentation and written instruction related

to the delegated nursing task be provided to the unlicensed person;

( ) Ensure that the unlicensed person is prepared to effectively deal with the consequences of performing the nursing task;

(5) The Nursing Quality Assurance Commission will adopt nursing task delegation protocols and make them available to the public by September 1, 1995.

NEW SECTION. RCW 18.79 ____. Liability of Nurse Delegating Nursing Tasks to Unlicensed Persons. (1) A registered nurse who delegates the provision of a nursing care task to an unlicensed person according to delegation protocols developed by the Nursing Quality Assurance Commission shall not be subject to an action for civil damages for the performance of a person to whom a nursing care task is delegated unless the person is acting pursuant to specific instructions from the nurse or the nurse fails to leave written instructions when the nurse should have done so.

Amend RCW 18.79.020

RCW 18.79.020 Definitions. Unless a different meaning is plainly required by the context, the definitions set forth in this section apply throughout this chapter.

(1) "Commission" means the Washington state nursing care quality assurance commission.

(2) "Department" means the department of health.

(3) "Secretary" means the secretary of health or the secretary's designee.

(4) "Diagnosis," in the context of nursing practice, means the identification of, and discrimination between, the person's physical and psychosocial signs and symptoms that are essential to effective execution and management of the nursing care regimen.

(5) "Diploma" means written official verification of completion of an approved nursing education program.

(6) "Nurse" or "nursing," unless otherwise specified as a practical nurse or practical nursing, means a registered nurse or registered nursing.

[1994 1st sp.s. c 9 § 402.]

(7) "Unlicensed persons" means an individual who is providing care and is not licensed to practice nursing, medicine, or any other health occupation requiring licensure in Washington and who is not a member of the patients immediate family. A nursing assistant registered or certified is an unlicensed person.

(8) "Stable and predictable condition" means a situation in which the client's clinical and behavioral status is known and does not require frequent presence and evaluation of a registered

nurse. This includes hospice clients whose deteriorating condition is predictable.

(9) "Supervision of unlicensed persons" means that the registered nurse, monitors by direct observation, the unlicensed person's skill and ability to perform delegated nursing tasks. Frequency of supervision is at the discretion of the registered nurse but shall occur at a minimum of every sixty (60) days.

RCW 18.79.260 Registered nurse--Activities allowed.A registered nurse under his or her license may perform for compensation nursing care, as that term is usually understood, of the ill, injured, or infirm, and in the course thereof, she or he may do the following things that shall not be done by a person not so licensed, except as provided in RCW 18.79.270, and 18.79. (new section) (Nursing Care Task to Unlicensed Persons.):